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BEFORE THE ARIZONA CORPORATION COMMISSION

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Chairman
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Commissioner
JEFF HATCH-MILLER
Commissioner
MIKE GLEASON
Commissioner
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Commissioner

Arizona Corporation Commission
DOCKETED

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IN THE MATTER OF THE APPLICATION
OF SMITH BAGLEY, INC., FOR
DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER
UNDER 47 U.S.C. §214(E)(2)

DOCKET NO. T-02556A-01-0931

DECISION NO. 66566ORDER

Open Meeting
November 4 and 5, 2003
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

I. Procedural History

1. On November 26, 2001, Smith Bagley, Inc. ("SBI") (d/b/a CellularOne™) filed an Application requesting designation as an Eligible Telecommunications Carrier ("ETC") pursuant to 47 USC § 214(e)(2) and 47 C.F.R. § 54.201.

2. Unlike its prior Applications, the instant Application requests ETC designation on non-reservation lands. In its Application, SBI requests that the Arizona Corporation Commission ("ACC") expand its ETC area to include rural and "near reservation" lands within the Arizona 3 Rural Service Area ("RSA"). These near reservation lands have significant Native American populations and include Winslow, Holbrook, Snowflake, St. Johns, Show Low, Pinetop, Lakeside, Taylor, Heber, Eagar, Overgaard, Alpine, Nutrioso and Springerville.¹

...

¹ See, Federal Register, Vol. 44, No. 9, January 12, 1979, Department of the Interior Bureau of Indian Affairs, Near Reservation Designations, 4310-02-M; Federal Register, Vol. 60, No. 165, August 25, 1995, Department of the Interior Bureau of Indian Affairs, Near Reservation Designations, 44394.

3. Specifically, SBI requests extension of its designation as an ETC to that area in Navajo and Apache Counties north/northeast of the Fort Apache Indian Reservation and south of the Navajo Indian Reservation.

4. On April 4, 2002, SBI filed an Amendment to its Application adding the City of Page, to the area it is seeking extension of its designation as an ETC. The City of Page is a "near reservation" area located within the Flagstaff Basic Trading Area ("BTA") which SBI is licensed to serve.

5. On May 21, 2002, Citizens Communications Company, Navajo Communications Company, Inc. and Citizens Communications Company of the White Mountains, Inc. dba Frontier Communications of the White Mountains (collectively, "Citizens") filed an Application for Leave to Intervene.

6. On June 13, 2002, the Application for Leave to Intervene filed by Citizens was granted.

7. On June 13, 2002, Table Top Telephone Company Inc. ("Table Top") filed an Application for Leave to Intervene.

8. On July 8, 2002, the Application for Leave to Intervene filed by Table Top was granted.

II. Background

9. SBI, organized under the laws of the District of Columbia, is a telecommunications corporation as defined in A.R.S. § 40-201. SBI is a Commercial Mobile Radio Service ("CMRS") provider as defined in 47 C.F.R. 20.3² and the Company provides telecommunications services as defined in 47 U.S.C. § 157(45). SBI maintains its headquarters and a local call center in the community of Show Low. The Company's licensed wireless service area includes the entirety of Navajo and Apache Counties and a portion of Coconino County. Information concerning the Company and its services is available at "<http://www.cellularoneaz.com/index.html>".

10. On June 30, 2000, the FCC released its Twelfth Report and Order, Memorandum FCC Opinion and Order, and Further Notice of Proposed Rulemaking (FCC 00-208) Promoting Deployment

² Commercial Mobile Radio Service is defined as a "mobile service that is: (a)(1) provided for profit, i.e. with the intent of receiving compensation or monetary gain; (2) An interconnected service; and (3) Available to the public, or to such class of eligible users as to be effectively available to a substantial portion of the public."

1 and Subscribership in Unserved Areas, Including Tribal and Insular Areas. In this Order the FCC
2 adopted "measures to: (1) promote telecommunications subscribership and infrastructure deployment
3 within American Indian and Alaska Native tribal communities; (2) establish a framework for the
4 resolution of Eligible Telecommunications Carrier designation requests under section (e)(6) of the
5 Communications Act of 1934, as amended (the Act); and (3) apply the framework to pending petitions
6 for designation as Eligible Telecommunications Carriers."

7 11. In its June 30, 2000, Report and Order, the FCC dismissed without prejudice SBI's
8 request for designation as an ETC to permit Arizona to determine the merits of SBI's request.

9 12. On December 15, 2000, in Decision 63269, the ACC ordered that SBI be designated as
10 an ETC for that portion of its existing cellular service contour within Arizona 3 RSA which encompass
11 that portion of the Navajo Indian Reservation located in Navajo and Apache Counties, that portion of
12 the Hopi Indian Reservation located in Navajo County, on the Pueblo of Zuni Reservation located in
13 Apache County and that portion of the White Mountain Apache Reservation located in Navajo,
14 Apache and Gila Counties.

15 13. Decision No. 63269 further ordered that an expedited hearing be held to determine
16 whether the Sanders exchange of Table Top Telephone Company should be included in SBI's ETC
17 service area. On March 9, 2001, in Decision 63421, the ACC ordered that those reservation lands
18 within the Sanders exchange be included in SBI's ETC service area.

19 14. SBI launched its universal service program (called "VisionOne™") in May 2001. From
20 its inception through August 31, 2003, over thirty-one thousand (31,086) people on reservation lands
21 have subscribed to VisionOne™ service. SBI estimates that approximately 80 percent of these
22 subscribers have never had phone service.

23 15. On July 26, 2002, in Decision 65054, the ACC expanded SBI's ETC service area to
24 include those areas within its existing Flagstaff BTA service contour which encompass that portion of
25 the Hopi Indian Reservation and the Navajo Indian Reservation located in Coconino and Navajo
26 Counties.

27 16. Federal universal service funding has enabled SBI to accelerate construction of facilities
28 on Native American lands within its ETC service area. Since receiving ETC designation, SBI has

1 constructed thirteen (13) new cell sites in tribal areas with high-cost support funds. An additional
2 eight (8) cell sites have been constructed in non-tribal areas, with company funds, that provide some
3 overlapping service into tribal areas and benefit tribal residents traveling outside tribal lands. Further,
4 SBI has increased voice channel capacity to its cells cites by an average of 33 percent to ensure
5 sufficient capacity for its customers. Finally, SBI states that another twenty-one (21) cell site locations
6 are in the process of planning review or site acquisition.

7 17. In an effort to increase telephone penetration on reservations lands, SBI has opened nine
8 (9) new stores on reservation lands and commissioned a mobile sales office (35 foot trailer) to travel to
9 remote regions of the reservations to provide potential customers with information about telephone
10 service, available Lifeline and Link Up benefits and present education seminars devoted to learning to
11 use a mobile phone. The mobile office is outfitted with office and communications facilities needed to
12 activate subscribers.

13 **III. Requirements for Designation as an ETC**

14 18. Designation as an ETC entitles a carrier to be eligible to receive federal universal
15 service funds. The requirements for designation of ETCs are specified by 47 U.S.C. § 214(e)(1). It
16 states that "A common carrier designated as an eligible telecommunications carrier under paragraph
17 (2) or (3) shall be eligible to receive universal service support in accordance with section 254 and shall
18 throughout the service area for which the designation is received – (A) offer the services that are
19 supported by Federal universal service support mechanisms under section 254(c), either using its own
20 facilities or a combination of its own facilities and resale of another carrier's services (including the
21 services offered by another eligible telecommunications carrier); and (B) advertise the availability of
22 such services and the charges, therefore using media of general distribution."

23 19. The Act defines "service area" as a geographic area established by a State commission
24 for the purpose of determining universal service obligations and support mechanisms. In the case of an
25 area served by a rural telephone company, "service area" means such company's "study area" unless
26 and until the Commission and the States, after taking into account recommendations of a Federal-State
27 Joint Board instituted under section 410(c), establish a different definition of service area for such
28 company. See 47 U.S.C. Section 214(e)(5).

1 20. 47 C.F.R. § 54.101, sets forth the services that a carrier must offer in order to receive
2 Federal universal service fund support. The services include:

- 3 (1) Voice Grade Access to the Public Switched Network. "Voice grade access" is
4 defined as a functionality that enables a user of telecommunications services to
5 transmit voice communications, including signaling the network that the caller
6 wishes to place a call, and to receive voice communications, including
7 receiving a signal indicating there is an incoming call. For purposes of this
8 Part, bandwidth for voice grade access should be, at a minimum, 300 to 3,000
9 Hertz;
- 10 (2) Local usage. "Local usage" means an amount of minutes of use of exchange
11 service, prescribed by the Commission, provided free of charge to end users;
- 12 (3) Dual Tone Multi-Frequency Signaling of its Functional Equivalent. "Dual tone
13 multi-frequency" ("DTMF") is a method of signaling that facilitates the
14 transportation of signaling through the network, shortening call set-up time;
- 15 (4) Single-party service or its functional equivalent. "Single-party service" is a
16 telecommunications service that permits users to have exclusive use of a
17 wireline subscriber loop or access line for each call placed, or, in the case of
18 wireless telecommunications carriers, which use spectrum shared among users
19 to provide service, a dedicated message path for the length of a user's particular
20 transmission;
- 21 (5) Access to Emergency Services. "Access to emergency services" includes
22 access to services, such as 911 and enhanced 911, provided by local
23 governments or other public safety organizations. 911 is defined as a service
24 that permits a telecommunications user, by dialing the three-digit code "911",
25 to call emergency services through a Public Service Access Point ("PSAP")
26 operated by the local government. "Enhanced 911" is defined as 911 service
27 that includes the ability to provide automatic numbering information ("ANI"),
28 which enables the PSAP to call back if the call is disconnected, and automatic
location information ("ALI"), which permits emergency service providers to
identify the geographic location of the calling party. "Access to emergency
services" includes access to 911 and enhanced 911 services to the extent the
local government in an eligible carrier's service area has implemented 911 or
enhanced 911 systems;
- (6) Access to Operator Services. "Access to operator services" is defined as access
to any automatic or live assistance to a consumer to arrange for billing or
completion, or both, of a telephone call;
- (7) Access to Interexchange Service. "Access to interexchange service" is defined
as the use of the loop, as well as that portion of the switch that is paid for by the
end user, or the functional equivalent of these network elements in the case of a
wireless carrier, necessary to access an interexchange carrier's network;

(8) Access to Directory Assistance. "Access to directory assistance" is defined as access to a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings; and

(9) Toll Limitation for Qualifying Low-Income Consumers. Toll limitation for qualifying low-income consumers is described in Subpart E of this part.

21. In order to be designated as an ETC, a carrier must also offer Lifeline and Link Up Service to all qualifying low-income consumers within its service area. See, 47 C.F.R. §§ 54.405 and 54.411(a). The FCC, in its Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, created a fourth tier (\$25 per month) of Federal Lifeline support and established additional Link Up support (\$70 per consumer) which is available to ETCs serving qualifying low-income individuals living on tribal lands. However, although the FCC has proposed to extend this fourth tier of support to "near reservation" lands, which would include the proposed ETC area of this Application, it has not done so as of this date³.

22. Under 47 U.S.C. § 214(e)(2), a state commission may grant ETC status to a company that provides service in an area served by a rural telephone company only if the state commission finds that doing so is in the public interest.

IV. SBI's Compliance with the Requirements for ETC Designation

A. Offering the Services Designated for Support

23. SBI states that it currently offers the services designated for support by the Federal universal support mechanisms under 47 U.S.C. § 51.101(a) which include the following:

1. Voice grade access to the public switched network.
2. Local usage.
3. Dual tone, multi-frequency signaling or its functional equivalent.
4. Single party service or its functional equivalent.
5. Access to emergency services.
6. Access to operator services.
7. Access to interexchange service.
8. Access to directory service.
9. Toll limitation for qualifying low-income consumers.

³ Due to this difference, the VisionOne™ offering consists of 150 minutes of local usage for customers who do not reside on reservation lands (on reservation customers receive 300 minutes). The VisionOne™ rate will remain at \$1.00 per month.

1 Application at p. 6.

2 24. SBI intends to provide digital PCS and analog wireless service in the proposed ETC
3 coverage area to subscribers taking service under its universal service plan. Further, the Company has
4 begun to overlay its current analog cellular system with digital coverage and anticipates doubling its
5 digital coverage by year-end 2003. SBI expects to have digital service throughout its existing and
6 proposed ETC coverage area within the next two to three years.

7 25. In Decisions 63269 and 65054 ("ETC Orders") the Commission found that SBI offered
8 the supported services, including Lifeline and Link Up, either using its own facilities or a combination
9 of its own facilities and resale of another carrier's services and met the requirements of § 214(e)(1)(A).
10 These same facilities will be utilized to provide service to the proposed ETC coverage area.
11 Therefore, Staff recommends that the Commission find that SBI meets this requirement for ETC
12 designation.

13 26. The FCC found that any telecommunications carrier using any technology, including
14 wireless technology, is eligible to receive universal service support if it meets the criteria under 47
15 U.S.C. § 214(e)(1). The FCC found that "wholesale exclusion of a class of carriers by the
16 Commission would be inconsistent with the language of the statute and the pro-competitive goals of
17 the 1996 Act." *Id.*, at para. 145. The FCC has reaffirmed these findings in both its Seventh Report and
18 Order and in its Ninth Report and Order and Eighteenth Order on Reconsideration on Universal
19 Service, CC Docket No. 96-45, finding that "federal universal service high-cost support should be
20 made available to all eligible telecommunications carriers that provide the supported services,
21 including wireless carriers, regardless of the technology used."

22 **B. Advertising of Supported Services**

23 27. SBI states that it has demonstrated that it will advertise the availability of such services
24 and the charges therefore using media of general distribution as required by 47 U.S.C. §214(e)(1)(B).
25 SBI asserts that the methods of advertising utilized include television, newspaper, magazine, radio,
26 direct mailings, public exhibits and displays, bill inserts, and telephone directory advertising. Initial
27 Application at pps. 6-7. SBI also states that it will publish advertising material in the Native American
28 language. SBI submitted examples of prior relevant advertisements to Staff. Further Staff has

1 observed that the Company's VisionOne™ offering is promoted on its website
2 (<http://www.cellularoneaz.com/VisionONE.htm>).

3 28. Based upon the above, the Staff concludes that SBI advertises the availability of
4 supported services and charges using media of general distribution as required by 47 U.S.C. Section
5 214(e)(1)(B). Staff recommends that the Commission find that SBI also meets this ETC designation
6 criteria.

7 **C. Universal Service Support Area**

8 29. The Commission must establish a geographic area for the purpose of determining
9 universal service obligations and support mechanisms for each designated ETC. *See* 47 U.S.C. §
10 214(e)(2); 47 C.F.R. § 54.201(b).

11 30. In areas served by a rural telephone company, however, 47 USC § 214(e)(5) provides
12 that the "service area" is the LEC study area. Where the requested service area differs from the LEC
13 study area, the carrier must obtain approval of the modified service area definition from the Federal-
14 State Joint Board for Universal Service. *Id.*

15 31. Exhibit A contains a listing of the rural (Citizens and Table Top) and non-rural (Qwest)
16 wire centers that exist within the requested ETC service area. For non-rural wire centers, no analysis
17 in regards to redefinition of a LEC service area is required. For the rural wire centers of Citizens, no
18 service area redefinition would be required since SBI is licensed to serve the entire study area should
19 the Commission grant SBI's Application. For the rural wire center of Table Top, redefinition is also
20 not required due to this having occurred as a result of Decision 63421 which granted ETC status in that
21 portion of Sanders wire center which was on reservation land. As a result of this Application, SBI will
22 serve all of the Sanders wire center. There, for purposes of this Order, no further redefinition is
23 required.

24 32. Based upon the above discussion, Staff therefore recommends that SBI's ETC service
25 area be expanded to include that area in Navajo and Apache Counties north/northeast of the Fort
26 Apache Indian Reservation and south of the Navajo Indian Reservation that are within its licensed
27 service contour. Staff further recommends that SBI ETC service area be expanded to include the City
28 of Page. See Map on Exhibit B.

1 **V. Intervenor Comments and The Public Interest Requirements**

2 **A. Intervenor Comments**

3 33. Citizen and Table Top are the only two rural telephone companies affected by SBI's
4 Application and both were Intervenor in this Docket. While both Citizens and Table Top filed
5 comments on SBI's Application, neither requested a Hearing.

6 1. Citizens

7 34. In its October 31, 2002, letter, Citizens (n/k/a Frontier) stated it "does not object to
8 geographically extending SBI's ETC designation to include the Frontier exchanges listed in the
9 previous paragraph (of the letter), provided the Commission attaches the same conditions
10 recommended by the Staff ... and adopted by the Commission in Decision Numbers 65045 and
11 63269." Letter at p.1. Staff's recommendations contained herein are consistent with the conditions
12 proposed by Citizens.

13 35. Citizens further notes that "the FCC has not yet determined the minimum minutes of
14 free minutes that constitute "local usage"." Letter at p.2. Citizens continues by providing comments
15 from the Independent Telephone and Telecommunications Alliance to the FCC regarding SBI's ETC
16 status on the Navajo Reservation in Utah. The comments suggest that the FCC "should consider
17 whether such an offering [VisionOne™] satisfies the definition of "local usage" within the meaning
18 and spirit of the Act."

19 36. The FCC has yet to issue an Order on SBI's Petition for ETC status on the Navajo
20 Reservation in Utah. However, the FCC has addressed this issue in a similar context in an Order
21 addressing ETC status for RCC Holdings, Inc. ("RCC Holdings") in the State of Alabama.⁴ In its
22 Alabama Order, the FCC stated that it has not set a minimum local usage requirement and that RCC
23 Holding's showing that it will offer minimum local usage as part of its universal service offering was
24 sufficient.

25 37. Staff suggests that consumers will determine what amount of local usage meets their
26 individual needs. If one of SBI's rate plans does not provide the right quantity of service, or if the

27
28 ⁴ RCC Holdings, Inc. Petition for Designation as an Eligible Telecommunication Carrier Throughout its Licensed Service Area In the State of Alabama, CC Docket No. 96-45, Memorandum Opinion and Order, Rlsd. November 27, 2002, para. 19 ("Alabama Order").

1 price is not commensurate with desired value, the consumer may well choose another wireless carrier
2 or the incumbent local exchange carrier as their service provider.⁵

3 38. SBI has also indicated to Staff that, should the FCC establish a minimum requirement
4 for local usage at some point in the future, the Company would fully comply with that requirement.
5 Staff concurs with the Company's response and accordingly recommends that SBI shall be required to
6 implement any minimum local usage requirement that may be established by the FCC upon its
7 effective date.

8 39. Finally, Citizens requests clarification on whether and how SBI will provide Apache-
9 speaking operators for its customers who reside on or near the White Mountain Apache Indian
10 Reservation. Citizens' sister company, Navajo Communications Company, Inc., provides operator
11 services to SBI and employs operators who also speak Navajo should a caller request to speak in that
12 language.

13 40. SBI has stated to Staff that SBI has Navajo-speaking customer service representatives
14 available for customers who dial *611. These representatives will handle all customer service
15 inquiries, including obtaining a telephone number for a customer. The Company further states that its
16 customer base on the White Mountain Apache Reservation has not warranted a full-time customer
17 service representative who speaks the Apache language. However, even though it has had very few
18 requests, the Company is now in the process of hiring to provide this service to its customers. Based
19 upon SBI's response, Staff believes this issue is being addressed.

20 2. Table Top

21 41. In its August 8, 2002, letter, Table Top stated that although it believed the Commission
22 was predisposed to granting an expansion of SBI's ETC status, it appreciated the opportunity to add to
23 the record certain other policy issues. In support of its statement, Table Top provided a Petition for
24 Expedited Rule Making that was filed with the FCC on July 26, 2002, by the National
25 Telecommunications Cooperative Association ("NTCA"). The filing, *inter alia*, sought to provide
26 clarification as to which competitive ETC lines should be eligible for support, raised concerns as to the
27 rapid growth in the federal universal support mechanism, identified instances of perceived regulatory

28 ⁵ In more remote or isolated areas, where wireline service may not be available (possibly due to costly line-extension charges), the consumer may have a more limited selection of choices.

1 disparity and highlighted increased investment uncertainties for rural ILECs.

2 42. Staff would note that, under current FCC methodology for providing high-cost support,
3 wireline carriers do not lose support when a customer selects a wireless ETC as their service provider.
4 Rural carriers receive support based upon their network costs and not "per line" support. Thus when a
5 customer leaves the wireline carrier's network, the rural carrier re-averages its network costs across the
6 remaining customer base in each subsequent reporting period so as to recover its full measure of high-
7 cost support. This was discussed in the FCC's Fourteenth Report and Order.⁶

8 43. Procedurally, the fact that NTCA's petition was filed with the FCC, and involves the
9 federal universal service funding mechanism, suggests that many of the issues are jurisdictionally
10 federal in nature. In its Alabama Order⁷ the FCC indicates that questions surrounding potential growth
11 of the high-cost fund are not properly addressed in the course of an ETC determination. Furthermore,
12 the FCC has requested the Federal-State Joint Board on Universal Service to provide recommendations
13 to it relating to high-cost universal support in study areas where a competitive ETC is providing
14 service, as well as for example, FCC rules regarding support for second lines.⁸

15 **B. Public Interest Criteria**

16 44. Under 47 USC § 214(e)(2), a state commission may grant ETC status to a company that
17 provides service in an area served by a rural telephone company only if the state commission finds that
18 doing so is in the public interest.

19 45. In its Application, SBI asserts that it "has amply demonstrated in Native American
20 lands in Arizona, its provision of a universal support offering will promote competition and facilitate
21 the provision of advanced communications services to the residents of rural Arizona. Residents in
22 rural areas have long trailed urban areas in receiving advanced telecommunications services.
23 Throughout the proposed ETC service area, no meaningful choice of local exchange carriers exists."
24 Application at p.7.

25 ⁶ See, *Federal-State Joint Board on Universal Service, Multi-Association Group (MAG) Plan for Regulation of Interstate*
26 *Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, Fourteenth Report and*
Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking, 16 FCC Rcd 11244,
11296-97 (2001) ("*Fourteenth Report and Order*").

27 ⁷ *RCC Holdings, Inc. Petition for Designation as an Eligible Telecommunication Carrier Throughout its Licensed Service*
28 *Area In the State of Alabama*, CC Docket No. 96-45, Memorandum Opinion and Order, Rltd. November 27, 2002, para.
32.

⁸ See *Federal-State Joint Board on Universal Service*, CC Docket 96-45, FCC 02-307, Order (rel. November 8, 2002).

1 46. Over 75 percent of the population of Apache County and nearly 50 percent of the population of
2 Navajo County is Native American. SBI estimates that there are 30,000 Native Americans living
3 within the proposed ETC service area. Further, SBI believes the majority of these residents suffer
4 from similar living conditions, poor economic opportunities and poverty as found among residents of
5 reservation lands. Application at p. 8.

6 47. With its VisionOne™ lifeline service offering, SBI offers qualifying residents 1) access
7 to telephone service where it may not previously been available, 2) the option of mobility versus the
8 fixed location of wireline service, 3) a local calling area that includes its entire network footprint⁹ and
9 4) a substantial list of government, social service, education, medical and other public service agencies
10 that may be called free of airtime charges.

11 48. Should the VisionOne™ offering not meet the needs of a qualifying lifeline customer,
12 lifeline support (Tiers 1, 2 and 3) is transferable to the Company's other service offerings thus making
13 these packages available at a reduced cost. Eligible consumers thus benefit by having additional
14 choices in addition to what is offered by the wireline carrier for their area.

15 49. SBI opines that "designating a competing carrier such as SBI as eligible to receive high
16 cost support will drive infrastructure investment into areas which now lag far behind metropolitan
17 areas." Application at p. 11. The Company has improved the robustness and quality of its network on
18 reservation lands where it has previously been designated as an ETC. Based upon the Company's
19 Application, Staff would expect this same result for the area which is the subject of this proceeding
20 should the Company's Application for ETC status be granted. According to Consumer Services' files,
21 no complaints, inquiries and opinions were received for SBI in 2001, 2002 and 2003 (year-to-date).

22 50. The proposed ETC area is, for the most part, highly rural in nature and sparsely
23 populated. Where the wireline carrier has not constructed facilities, the availability of a robust
24 wireless network provides options to residents that might not otherwise be available. SBI's eligibility
25 to receive federal high-cost support may allow it to expand its network into areas where it would be
26 otherwise uneconomic to do so. In areas where wireline line extension charges are applicable, should
27 these charges not be affordable, a wireless option for local service could be a significant benefit to

28 ⁹ Now includes all of Navajo and Apache counties, a substantial portion of Coconino County, as well as some areas of northwest New Mexico.

1 residents.

2 51. Under 47 C.F.R. § 54.314, this Commission makes an annual certification to the
3 Administrator of the high-cost universal service support mechanism concerning use of federal
4 universal service funds. In conjunction with this requirement, SBI as well as other ETCs under state
5 jurisdiction provide an annual certification that all federal high-cost support is used only for the
6 provision, maintenance, and upgrading of facilities and services for which support is intended. As a
7 wireless competitive ETC, Staff would recommend that this requirement for SBI would continue to be
8 applicable and conditioned upon the Commission's reservation of right, upon a request from Staff, to
9 audit all expenditures of these funds.

10 52. Other potential benefits to consumers from designation of SBI as an ETC for this
11 geographic area include the following. Consumers should have improved access to SBI's network and
12 services as a result of high-cost funding being applied to growth and enhancement of SBI's facilities.
13 Furthering the growth of competition should enhance a consumer's range of choices for their
14 telecommunications services. For example, consumers may weigh the unlimited local usage of
15 wireline service versus a variety of wireless packages with varying minutes of usage. Other choices a
16 consumer may evaluate in the selection of a service provider are service mobility versus service at a
17 fixed location as well as potential differences in local calling scope, toll calling plans or other feature
18 offerings.

19 53. In summary, Staff has reviewed SBI's Application and believes that it will provide
20 additional consumer choice, promote telephone subscribership for both Native American and non-
21 Native American consumers, may reduce health and safety risks associated with geographic isolation
22 and further promotes access to basic telephone service. Therefore, Staff recommends that the
23 Commission find that SBI's Application for ETC status with respect to areas served by a rural
24 telephone company is in the public interest.

25 **VI. Staff Recommendations**

26 54. Consistent with prior ETC Orders of the Commission, Staff recommends SBI's
27 Application to enlarge its ETC designation be granted subject to the following conditions:

28 1. SBI file a tariff with the Commission, setting forth the rates, terms and conditions for

1 its Life Line and Link Up service in the additional areas approved herein. On an
2 Ongoing basis SBI shall comply with ARS 40-367 in amending its tariffs. SBI shall
3 be required to file a new tariff or update its existing tariff as necessary within thirty
4 (30) days of this order.

- 5 2. SBI shall be required to file service area maps for the areas it is granted ETC status
6 by the Commission within thirty (30) days of this order.
- 7 3. SBI shall be required to provide service quality data within thirty (30) days of a
8 request by Commission Staff, and at such other times as may be requested from time
9 to time by the Staff.
- 10 4. SBI shall submit any consumer complaints that may arise from its offering as an
11 ETC to the Commission's Consumer Service Division, provide a regulatory contact
12 and comply with the provisions of the Commission's customer service and
13 termination of service rules.
- 14 5. SBI shall submit its advertising plan for Lifeline and Link Up services to Staff for
15 review prior to commencing service.

16 55. Under 47 CFR § 54.313 and 54.314, the state commission must certify to the FCC and
17 the Universal Service Administrative Corporation ("USAC") as to an ETC's compliance with 47 USC
18 § 254(e). In September of 2003, SBI submitted its certification to the ACC and the ACC included SBI
19 in its certification to the FCC and USAC. Upon consideration of the factors set forth in SBI's
20 Application, Staff recommends a finding that SBI has met the high-cost certification requirement and
21 that SBI is, therefore, entitled to begin receiving high-cost support for its new ETC service area.

22 CONCLUSIONS OF LAW

23 1. SBI is a telecommunications corporation as defined in A.R.S. § 40-201(26), and is a
24 "telecommunications carrier" as defined in 47 U.S.C. § 153(44). SBI is also a Commercial Mobile
25 Radio Service provider as defined in 47 U.S.C. § 153(27) and A.A.C. R14-2-1201.

26 2. The Commission has jurisdiction over the subject matter of this Application.

27 3. SBI also provides Basic Local Exchange Telephone Service as defined in A.A.C. R14-
28 2-1201(6).

29 4. Under 47 U.S.C. § 214(e)(1), a common carrier that is designated as an Eligible
30 Telecommunications Carrier must, throughout its service area, offer the services that are supported by
31 federal universal service support mechanisms either using its own facilities or a combination of its own

1 facilities and resale of another carrier's services. The carrier must also advertise the availability of
2 such services and the rates for the services using media of general distribution.

3 5. Under 47 U.S.C. § 214(e)(2), the Commission must establish the geographic area for
4 the purpose of determining universal service obligations and support mechanisms. In areas served by a
5 rural telephone company, however, "service area" is the LEC study area unless such LEC service area
6 is redefined by the state commission and FCC. 47 USC § 214(e)(5). SBI's application, as amended,
7 applies to the service areas of Citizens and Table Top, as previously redefined, and accordingly, no
8 further redefinition under § 54.207(b) of the FCC's rules is necessary.

9 6. Under 47 C.F.R. § 54.405 and 47 C.F.R. § 54.411, as part of its obligations as an
10 Eligible Telecommunications Carrier, the carrier is required to make available Lifeline and Link Up
11 services to qualifying low-income customers.

12 7. SBI meets the requirements contained in 47 U.S.C. § 214 and 47 C.F.R. § 54.201 et
13 seq. to be designated as an Eligible Telecommunications Carrier.

14 8. It is in the public interest to grant ETC status to SBI for those areas within its existing
15 licensed service contour which encompass that portion of Navajo and Apache Counties for which the
16 Company has not previously been granted ETC status and for the City of Page.

17 9. Staff's findings and recommendations, which are set forth herein, are reasonable and
18 should be adopted.

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ORDER

IT IS THEREFORE ORDERED that the SBI Application for Designation as an Eligible Telecommunications Carrier under 47 U.S.C. § 214(e)(2) be and hereby is granted.

IT IS FURTHER ORDERED that SBI shall make available Lifeline and Link Up services to qualifying low-income applicants in its new ETC area no later than January 31, 2004.

IT IS FURTHER ORDERED that Staff's findings and recommendations incorporated herein are adopted.

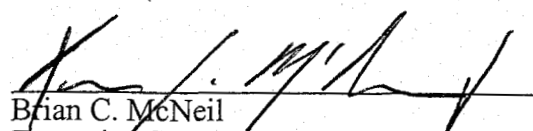
IT IS FURTHER ORDERED that SBI shall comply with the conditions of Findings of Fact No. 54.

IT IS FURTHER ORDERED that SBI has met the high-cost certification requirement and that SBI is, therefore, entitled to begin receiving high-cost support for its new ETC service area.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION
CHAIRMAN
COMMISSIONER
COMMISSIONER
COMMISSIONER
COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this 18th day of November, 2003.


Brian C. McNeil
Executive Secretary

DISSENT: _____

DISSENT: _____

EGJ.RLB:lhbm/MAS

SERVICE LIST FOR: SMITH BAGLEY, INC.
DOCKET NO. T-02556A-01-0931

- 2
- 3 Mr. David A. LaFuria
- 4 Lukas, Nace, Gutierrez & Sachs, Chartered
- 5 1111 North West 19th Street, Suite 1200
- 6 Washington, D.C. 20036
- 7 Attorneys for Smith Bagley, Inc.
- 8
- 9 Mr. Richard Watkins
- 10 Chief Operations Officer
- 11 Smith Bagley, Inc., dba CELLULARONE
- 12 1500 South White Mountain Road
- 13 Show Low, Arizona 85901
- 14
- 15 Mr. Curt Huttshell
- 16 Frontier Citizens Communications, Inc.
- 17 4 Triad Center, Suite 200
- 18 Salt Lake City, Utah 84180
- 19
- 20 Mr. Timothy Berg
- 21 Fennemore Craig, P.C.
- 22 3003 North Central Avenue, Suite 2600
- 23 Phoenix, Arizona 85012
- 24
- 25 Mr. John Hayes
- 26 Table Top Telephone Company, Inc.
- 27 600 North 2nd Avenue
- 28 Ajo, Arizona 85321
- 29
- 30 Mr. Wayne Taylor, Jr.
- 31 Chairman
- 32 The Hopi Tribe
- 33 Post Office Box 123
- 34 Kykosmovi, Arizona 86039
- 35
- 36 Mr. Kelsey A. Begaye
- 37 President
- 38 Navajo Nation
- 39 Post Office Drawer 9000
- 40 Window Rock, Arizona 86515
- 41
- 42 Mr. Ernest G. Johnson
- 43 Director, Utilities Division
- 44 Arizona Corporation Commission
- 45 1200 West Washington Street
- 46 Phoenix, Arizona 85007
- 47
- 48 Mr. Christopher C. Kempley
- 49 Chief Counsel
- 50 Arizona Corporation Commission
- 51 1200 West Washington Street
- 52 Phoenix, Arizona 85007
- 53
- 54

Exhibit A

NON- RURAL SERVICE AREAS WHERE SMITH BAGLEY, INC.
REQUESTS ETC DESIGNATION

Service Area/LEC	Wire Center Name	County Served	Wire Center/ CLLI Code	Entire/ Partial
Qwest	Winslow	Navajo	WNSLAZMA	Partial ¹⁰
Qwest	Joseph City	Navajo	JSCYAZMA	Entire
Qwest	Page	Coconino	PAGEAZMA	Partial ¹¹

¹⁰ Smith Bagley, Inc. has already been designated as an ETC in the remainder of this wire center.

¹¹ Smith Bagley, Inc. is licensed to only provide service within the city limits of Page, Arizona.

Exhibit A

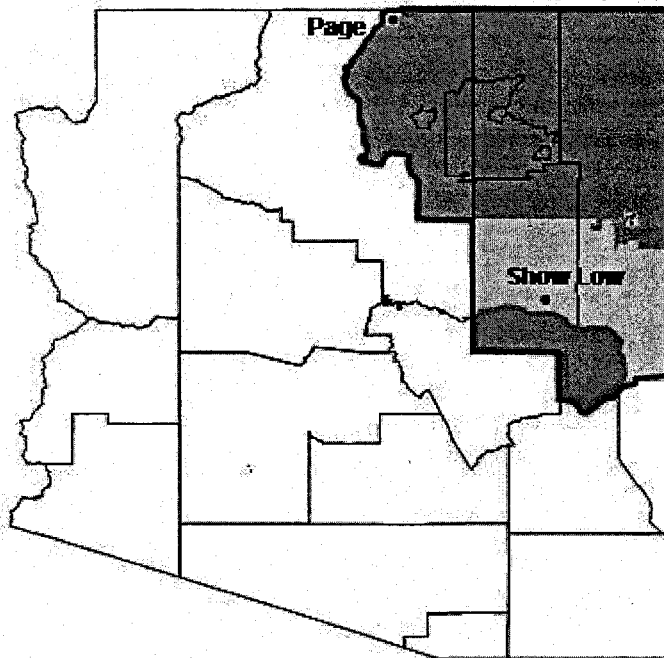
RURAL SERVICE AREAS WHERE SMITH BAGLEY, INC.
REQUESTS ETC DESIGNATION

Service Area/LEC	Wire Center Name	County Served	Wire Center/CLLI Code	Entire/Partial
Citizens	Show Low	Navajo	SHLWAZXC	Partial*
Citizens	Pinetop	Navajo	PNTPAZXA	Partial*
Citizens	Springerville	Apache	SPVLAZXC	Entire
Citizens	Holbrook	Navajo	HLBKAZXC	Entire
Citizens	Alpine	Apache	ALPIAZXC	Entire
Citizens	Heber	Navajo	HEBRAZXC	Entire
Citizens	Greer	Apache	GRERAZXC	Entire
Citizens	Pinedale	Navajo	PNDLAZXC	Entire
Citizens	St. John	Apache	STJHAZXB	Entire
Citizens	Snowflake	Navajo	SNWFAZXC	Entire
Table Top	Sanders	Apache	SNDRAZXC	Partial*




* Smith Bagley, Inc. has already been designated as an ETC in the remainder of these wire centers.

Exhibit B

CELLULAR ONE ARIZONA MARKET: CMA 320 & BTA 144



REV 8/15/03

-  Geographic Local Calling Area For VisionOne and non-VisionOne Customers
-  Existing Tribal ETC Areas: Navajo Hopi, WMAT
-  Pending Near Reservation ETC Areas